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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re:

WHAIRHOUSE REAL ESTATE INVESTMENTS,
LLC,¹

Debtor.

Case No.: 23-16723(RG)
Chapter 11

(Jointly Administered)

**MOTION TO VACATE THE DECEMBER 20, 2023 ORDER AUTHORIZING THE
TRUSTEE TO SELL REAL PROPERTY AND DIRECTING THE PASSAIC COUNTY
SHERIFF TO TURN OVER THE DEPOSIT**

The motion of the Passaic County Sheriff's Office, by and through its attorneys, Nadege D. Allwaters, County Counsel, and Kevin J. Bloom, Assistant County Counsel, respectfully shows:

1. This is a Motion pursuant to Federal Rule of Civil Procedure 60(b) and Federal Rule of Bankruptcy Procedure 9024 to vacate the Order dated December 20, 2023 entered by the Honorable Rosemary Gambardella directing, among other things, the sale of 14 Guenther Place

¹ The following cases have been consolidated in this jointly administered case: Whairhouse Real Estate Investments, LLC (Case No. 23-16723 (RG)), Taylor Court Apartments, LLC (Case No. 23-16641 (RG)), and Whairhouse Limited Liability Company (Case No. 23-17272 (RG))

2. The Court has jurisdiction over this contested matter pursuant to 28 U.S.C. §1334. This matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A).
3. The Passaic County Sheriff's Office (hereafter "Sheriff") is responsible for, among other duties, levying real property in according with valid judgments and writs of execution in civil matters in Passaic County, New Jersey, pursuant to the Rules of Court of the State of New Jersey, N.J. R. 4:65-1 et seq.
4. On October 23, 2018, Colony American Finance 2016-2, LTD (hereafter "Secured Creditor") filed an action in foreclosure against Whairhouse Real Estate Investments, LLC (hereafter "Debtor") to foreclose upon many properties owned by Debtor located in Passaic County, but specifically the following three properties which are at issue herein: 14 Guenther Place (a/k/a/ 6 Guenther Place), 16 Guenther Place (a/k/a/ 8 Guenther Place) , each in the City of Passaic, and 84-86 Madison Street in the City of Paterson (hereafter "Properties").
5. On January 10, 2023 the Honorable Frank Covello, P.J.Ch., entered Final Judgment in Foreclosure in favor of Secured Creditor and against Debtor, further ordering the Passaic County Sheriff (hereafter "Sheriff") to conduct a sale of the Properties.
6. On or about January 11, 2023, the Sheriff received the Writ of Execution from Secured Creditor, directing the Sheriff to execute a Sheriff's sale of the Properties on behalf of Secured Creditor.
7. On June 6, 2023, the Sheriff conducted a Sheriff's sale (hereafter "June 6 Sheriff's sale"), selling the Properties to the high-bidder at the sale, B.I.J.I. Holdings, LLC for \$900,000.00. Attached hereto as Exhibit A are the Conditions of Sale and the Execution Sale Statement.

8. On June 16, 2023, counsel for Debtor filed an objection to the June 6 Sheriff's sale, personally emailing me a copy of the motion papers. Attached hereto as Exhibit B is the email from Debtor's counsel serving me the motion papers.
9. On July 7, 2023, Judge Covello entered an Order denying Debtor's motion to vacate the June 6 Sheriff's sale. Notably, this Order afforded Debtor the alternate relief of extending the equitable redemption period to August 5, 2023. Attached hereto as Exhibit C is the July 7, 2023 Order.
10. On August 4, 2023, Debtor filed an application for bankruptcy, which pursuant to 11 U.S.C. § 108(b), extended the equitable redemption period to October 4, 2023.
11. On September 6, 2023, B.I.J.I. Holdings, LLC filed a motion to vacate the June 6 Sheriff's sale. Attached hereto as Exhibit D is the Notice of Motion and Certification of Service, showing that I was personally served this motion.
12. On October 6, 2023, Judge Covello entered an Order denying B.I.J.I. Holdings, LLC's motion to vacate the June 6 Sheriff's sale. Attached hereto as Exhibit E is the October 6, 2023 Order.
13. I have never been served any papers in relation to this bankruptcy petition. I first became aware of a bankruptcy petition by virtue of the motion to vacate filed by B.I.J.I. Holdings, LLC.
14. I had no knowledge of the motion filed on December 7, 2023, until the Trustee sent a copy of the Order dated December 20, 2023 through regular mail to the Office of Passaic County Counsel. On December 27, 2023, upon discovering the Order dated December 20, 2023, I immediately reached out to counsel for the Trustee, and filed a Notice of Appearance.

15. The Sheriff has cause for relief from the Order dated December 20, 2023 because Trustee failed to follow applicable notice requirements in serving the Sheriff, a party in interest in this case.

16. The Sheriff further has cause for relief from the Order dated December 20, 2023 because it is entitled to a commission pursuant to the law of the State of New Jersey, N.J.S.A. 22A:4-8.

WHEREFORE, the Passaic County Sheriff's Office respectfully requests that the Order dated December 20, 2023 directing, among other things, that the Trustee sell the Properties and that the Sheriff remit the deposit from the June 6 Sheriff's sale in the amount of \$180,000.00 to Trustee, be vacated, and or such other relief as may be just.

Dated: January 3, 2024
Paterson, New Jersey

By: /s/ Kevin J. Bloom
Kevin J. Bloom, Esq. Assistant County Counsel

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